

## DISPLACED WORKER MEDICAL BENEFIT PROGRAM NOTICE

### What is the Background Information You Need to Know?

The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) allows certain former employees and qualified beneficiaries to temporarily continue group health coverage they received while employed. Under COBRA, employees separating both voluntarily and involuntarily (in most cases), and upon the occurrence of other specified events, and any qualified beneficiaries are eligible to continue existing coverage. Moreover, under COBRA, these employees are generally required to pay the full premium amounts plus an administrative fee.

The Department of Energy (DOE) allows management and operating and certain other cost type prime contractor employees separating in an involuntary or voluntary separation program, conducted pursuant to a preapproved 3161 workforce restructuring action, to continue their existing health care coverage under either COBRA or the DOE Program known as the Displaced Worker Medical Benefit Program (DWMBP). The DWMBP provides qualified individuals with subsidies of premiums paid for health care coverage as follows: (1) 100% of the current active employee premium contribution for the first year following separation, (2) one-half of the rate the employee would have paid had the employee chosen COBRA coverage, during the second year, and (3) the full rate the employee would pay for standard COBRA coverage (employee pays entire premium) in the third year and beyond, until the employee becomes eligible for other qualified group medical coverage such as Medicare.

The Recovery Act was enacted on February 17, 2009. It amended COBRA to require most employers to offer eligible employees who are involuntarily separated from employment between September 1, 2008 and December 31, 2009, and their qualified beneficiaries, a 65% subsidy on the employee portion of the premiums for any group health plan the employee was enrolled in at the time of involuntary separation. The subsidy lasts for a period of nine months from the date of involuntary termination, and employers must either pay the subsidy starting with the first premium payment period after the Recovery Act's enactment, which is typically March 1, 2009, or later reimburse or provide the employee with a credit toward future COBRA premiums. The employer paying the subsidy may claim a payroll tax credit for reimbursement by the federal government or the employer may claim the subsidy as a cost under the contract. However, pursuant to FAR 31.201-5, if the employer claims the subsidy as a cost under the contract and claims a payroll tax credit, he must apply that credit to the Government in the amount of the allowable cost of the subsidy. Finally, the subsidy is phased out for individual tax filers earning \$125,000 and above.

**What is the Guidance Contained in this Notice?**

Accordingly, the contractor must notify eligible employees interested in the federal COBRA subsidies under the Recovery Act that they will not be allowed to receive medical benefits under both DWMBP and the COBRA program. They will have to choose between the two programs in order to receive continued medical benefit coverage.

However, because DWMBP does not include coverage for dental and vision plans, the COBRA subsidy should be offered to employees seeking to continue participation in their existing dental and vision plans, providing there is no duplication of coverage.

Employees electing DWMBP are not eligible to receive the COBRA subsidy for the portion of the DWMBP premium that they are required to pay.